

VZCZCXYZ0002  
RR RUEHWEB

DE RUEHPS #0009/01 0051140  
ZNR UUUUU ZZH  
R 051140Z JAN 07  
FM USOFFICE PRISTINA  
TO RUEHC/SECSTATE WASHDC 6893  
INFO RUEHRC/DEPT OF AGRICULTURE WASHDC  
RUCPDOG/USDOC WASHDC  
RUCPCIM/CIMS NTDB WASHDC

UNCLAS PRISTINA 000009

SIPDIS

SIPDIS

STATE FOR EUR/SCE, EB/IFD/OIA AND EB/CBA-DWINSTEAD  
STATE PLEASE PASS TO TREASURY AND COMMERCE DEPARTMENTS  
STATE PLEASE ALSO PASS TO USTR

E.O. 12958: N/A  
TAGS: [BEXP](#) [BTIO](#) [ECON](#) [ETRD](#) [EINV](#) [ELAB](#) [KTDB](#) [PGOV](#) [EFIN](#)  
OPIC, USTR, YI  
SUBJECT: KOSOVO: KOSOVO 2007 INVESTMENT CLIMATE STATEMENT

REF: STATE 178303

#### INTRODUCTION

¶1. (U) Kosovo continues to be administered under the civil authority of the United Nations Interim Administrative Mission in Kosovo (UNMIK), pursuant to U.N. Security Council Resolution 1244. UNMIK was established in June 1999, following the conclusion of the NATO military campaign against Slobodan Milosevic's forces. Kosovo is entering a distinctly new phase with 2007 likely to see the resolution of Kosovo's final status and the implementation of a settlement that contains new responsibilities for the local authorities as well as the international community. New powers and responsibilities will be transferred to Kosovars, and the executive authority of the United Nations will give way to a new role for the U.S.-supported international follow-on mission responsible for overseeing the settlement implementation.

¶2. (U) The political situation in Kosovo remained relatively stable in 2006. However, substantial democratic and bureaucratic deficiencies, and the lack of professional and technical capacity within the Kosovo civil service, weakened the performance of the Provisional Institutions of Self-Government (PISG).

¶3. (U) Overall, the rule of law needs to be significantly strengthened. The administration of justice continues to be a major problem, as the backlog of cases increases. The judicial institutions and the law enforcement agencies need to be substantially improved to be capable of fully enforcing the rule of law. Corruption is widespread and there is a lack of cohesive and forceful action against it. The PISG established the Anti-Corruption Agency in 2005, but it remains a nascent institution lacking capacity and strong political support.

¶4. (U) Kosovo's administrative capacity remains weak. Its public administration is inefficient and subject to political interference. Although a legal basis for the civil service and for public finance management is in place, there is a lack of transparency and accountability. Government coordination must be enhanced and the relationship between the central and municipal level needs to be further defined. Improving the provision of basic public services to all communities is a priority.

¶5. (U) Under UNMIK Regulation 1999/24, the applicable law in Kosovo includes UNMIK laws and regulations and those of the Former Socialist Republic of Yugoslavia in effect in Kosovo

as of March 22, 1989. As a result, businesses in Kosovo operate under a complex and, in some cases, incomplete set of legal codes. UNMIK continues to transfer responsibilities to the (PISG), consistent with UNSC resolution 1244 (1999). The responsibilities transferred and those reserved for UNMIK are outlined in the Constitutional Framework.

¶6. (U) UNMIK, the European Union's (EU) Pillar IV and the PISG foster economic development. While privatization of socially-owned enterprises (SOEs) is considered an economic success story in Kosovo, progress in other key structural reform areas, such as the restructuring of public utilities, has been more limited. The main development in the area of structural reforms since 2004 has been a renewed focus on the privatization of socially-owned enterprises (SOEs) following changes in the Kosovo Trust Agency's (KTA) (<http://www.kta-kosovo.org/>) management in summer 2004. Privatization resumed in 2004 and achieved significant progress. By December 2006, the KTA, which is responsible for the administration and maintenance of SOEs and publicly-owned enterprises (POEs), tendered 228 out of 500 SOEs, which created 359 new companies. KTA has signed 190 contracts with the new owners and privatization sales have generated 264,459,831 euros.

¶7. (U) According to the KTA, approximately 200 out of the 500 SOEs are not viable. The non-viable SOEs are expected to be liquidated, and in this context preparations have taken place for the auctioning of their assets. In April 2005, the UN Special Representative for the Secretary General, the official administrator of Kosovo, adopted an amendment to the KTA regulation which introduces an eminent domain, clause enabling swifter property expropriation and further limits the risk exposure of the seller. This change facilitated the privatization of a number of SOEs, notably the 140 agro-industrial firms, which had been delayed.

¶8. (U) Some progress has been made on the restructuring of POEs. The major public utilities - Pristina International Airport, Kosovo Energy Corporation, Post and Telecommunications of Kosovo, Kosovo Railways, district heating enterprises, and landfill, water and waste management companies - were incorporated in 2005 and 2006. KTA's incorporation program for POEs reorganizes them under a different corporate governance structure, establishes clearer financial rules, and creates a new balance sheet to account for assets, investments and debts. Incorporation clarifies the legal status and claims against the assets and liabilities of POEs, establishes proper management and oversight procedures, and develops a clearer financial record to help with potentially borrowing money from banks, international financial institutions, and eventually privatization.

¶9. (U) Following the effective transfer of budget responsibility from UNMIK to the PISG in 2002, continued improvements in the process of institutional capacity building took place, notably in the Ministry of Finance and Economy. A new regulatory environment has been established for the energy sector, with the adoption of a series of laws in June 2004, the establishment of the Energy Regulatory Office that year and the signature of the Energy Community Treaty establishing a Regional Energy Market in South East Europe in October 2005.

¶10. (U) Electricity in Kosovo is produced by two lignite-fired thermal power plants with 1950s and 1970s technology known as Kosovo A and Kosovo B, with installed capacity of about 1500 MW and a small (about 35 MW) hydropower plant. All five units of Kosovo A are under different stages of refurbishment. Poor capacity utilization leads to shortages and outages. Most of the transmission lines are now in operation following post-conflict repairs, but the substations are still in bad technical condition. Electricity demand in 2006 was 1100 megawatts (MW) as opposed to 720 MW generated. Bill collection is a serious problem which impedes needed reinvestment in equipment for power generation and supply as well as foreign investment in the

energy sector. About 50 percent of the electricity supplied was billed in 2005 (technical and non-technical losses were 50 percent) and only 37 percent of the amount billed was collected.

¶11. (U) On August 16, 2006, the Ministry of Energy and Mining, in accordance with the PISG's energy policy for Kosovo and in cooperation with the World Bank, solicited expressions of interest (EOI) from qualified private investors in an energy development project that encompasses the following components:

- a) Construction of a new power plant, Kosovo C, with an estimated installed capacity of up to 2100 MW and associated transmission capacity;
- b) The development of a new coal mine for existing generation units (Sibovc Southwest) and development of a new mine (the Sibovc mine) for PPC; and
- c) Rehabilitation of certain units of the existing power plant, Kosovo A.

¶12. (U) On December 4, 2006 the Project Steering Committee (PSC), led by the Minister of Energy and Mining, announced the acceptance of credentials by companies and consortia interested in competing for the development of the energy sector. There is significant American interest in the energy sector. The credentials of these companies have been submitted in response to the EOI. The energy sector development tender is a USD 2-3 billion dollar project. On December 28, 2006, the PSC shortlisted four companies, three were American firms, and their consortia. The PSC will forward a request for proposal to the shortlisted companies and their consortia to submit bids for the project tender by the first quarter of 2007.

¶13. (U) The mining industry was an important sector of the Kosovo economy, but began to decline in the 1990's due to lack of investment in equipment, facilities and the development of new mines. Kosovo is keen to attract foreign investment to reinvigorate this industry. Kosovo has a varied geology containing a range of exploitable minerals such as lead, copper, gold, silver, magnesium and zinc. The Independent Commission for Mines and Minerals (ICMM) regulates Kosovo's minerals sector, issues exploration and mining licenses, and ensures compliance with legislation in accordance to international mining, environmental and safety standards. In 2006, a total of 69 exploration and mining licenses were granted. ICMM provides key technical information to prospective bidders. In 2006, a Kazakh-Swiss consortium, International Mineral Resources AG/Alferon, won the Ferronikeli nickel mine and smelter complex SOE for 30.5 million euros, the largest foreign investment via privatization.

#### ¶A. OPENNESS TO FOREIGN INVESTMENT

¶14. (U) UNMIK and the Ministry of Trade and Industry (MTI) actively promote foreign investment in Kosovo. In January 2001, UNMIK adopted Regulation 2001/3 on Foreign Investment in Kosovo, and the Kosovo Assembly approved the Foreign Investment Law (FIL) on November 21, 2005, which was promulgated by UNMIK on April 28, 2006. The law states that foreign firms operating in Kosovo will receive national treatment, which means that they will be treated no less favorably than domestic businesses. The only specific limitation on foreign investment is a prohibition against foreign investors holding more than 49 percent ownership in business organizations that manufacture or distribute military products (Reg. No. 2001/3, Section 6). However, local businesses are not allowed to carry arms, which creates a market for foreign companies specializing in armed guard services.

¶15. (U) The registration of businesses in the MTI's official registry has increased each year since 1999 and points to a trend of local enterprise development, to the extent it can

be recorded in the formal economy.

¶16. (U) Kosovo continues to make progress in developing an economic legislative framework. The basic legislation of a market-oriented economy is in place. However, the protection of private agricultural and commercial property and intellectual property rights, remains a challenge. In addition, legal uncertainty, weaknesses in law implementation, contract enforcement, as well as contingent liabilities, continue to constitute an impediment to economic activity and in particular to investment. The resolution of private agricultural and commercial property rights is the current focus of Kosovo and the international community. The determination of SOE ownership has raised complex issues, and leaves room open for litigation, thus arguably reducing the price which bidders are ready to offer during privatization. Property registers exist but are often not complete.

¶17. (U) Particular attention has been given to meeting European Union standards and Kosovo has drafted new legislation and revised existing laws to ensure that its regulations are compatible. A major instrument in this regard is the Stabilization and Association Process (SAA) Tracking Mechanism with the European Commission, which held its first session in Pristina on March 13, 2003. This technical working group continues to meet in order to support Kosovo in its EU-compatible structural reforms through policy advice and guidance.

¶18. (U) Nearly 70 regulations have been passed for economic and commercial development. Some of the laws are regulations on Foreign Investment, Business Organizations, Contracts for the Sale of Goods, Pledges, Insurance Regulation and Supervision, Payment Transactions, Essential Labor Law, Standards for Financial Reporting, Establishment of a Pledge Filing Office, Law on Mortgages, Law on the Establishment of an Immovable Property Registry, Law on Liquidation and Reorganization of Legal Persons in Bankruptcy Transformation, The Right of Use to Socially-Owned Immovable Property, Law on External Trade Activity, Law on Telecommunications, Law on Energy, Law on Anti-Corruption, and the Law on Anti-Money Laundering. All commercial laws are available for public access and in English on the UNMIK website: [www.unmikonline.org/regulations](http://www.unmikonline.org/regulations). It should be noted that English is the official language of Kosovo in case of a legal dispute or translation of documents.

#### ¶B. CONVERSION AND TRANSFER POLICIES

19.(U) Section 9 of the UNMIK Regulation (1999/24) and Article 9 of the FIL guarantees unrestricted use of income from foreign investment. Lawful proceeds, apart from tax and other liabilities, from foreign investment may be disposed of in any manner, including repatriation or conversion to another currency in any domestic or foreign market. Foreign investors have the right to open bank accounts. There is no restriction on the currencies in which such accounts may be opened and operated. Kosovo permits all conversions and transfers to be effectuated without delay in accordance with normal and customary banking procedures in general use by the banking industry in the EU. All conversions are made at a market rate of exchange.

#### ¶C. EXPROPRIATIONS AND COMPENSATION

¶20. (U) Section 7 of the UNMIK Regulation and Article 8 of the FIL protects foreign investments from expropriation, guaranteeing due process of law and timely payment of compensation for valid claims. The U.S. Overseas Private Investment Corporation (OPIC) operates in Kosovo, which further protects American investors from political risk. In April 2005, the Special Representative of Secretary General (SRSG) adopted an amendment to the KTA regulation which introduces an eminent domain, clause enabling, if needed, swift property expropriation and limits risk exposure to the Kosovo Trust Agency. It is important to note that the eminent domain clause can be implemented in cases only pertaining to SOEs.

#### 1D. DISPUTE SETTLEMENT

121. (U) Section 17 of the UNMIK Regulation and Chapter 4 of the FIL assigns jurisdiction for the resolution of business disputes to the courts; parties to foreign investment, however, are free to agree upon arbitration or another alternative dispute resolution procedure, the results of which are enforceable by local courts. The FIL allows foreign investor to choose any of the following procedural rules to govern the arbitration of the investment dispute:

a. The ICSID Convention, if the foreign investor is a citizen of a foreign country and that country and Kosovo are both parties to that convention at the time of the submission of the request for arbitration;

b. the ICSID Additional Facility Rules, if the jurisdictional requirements &ratione personae of Article 25 of the ICSID Convention are not fulfilled at the time of the submission of the request for arbitration;

c. the UNCITRAL Rules, in such case the appointing authority referred to therein shall be the Secretary General of ICSID; or

d. the ICC Rules.

122. (U) The commercial court has jurisdiction over disputes involving shipping, intellectual property rights and unfair trade practices. The effectiveness of the court is undermined by lack of enforcement of existing laws, which remains the primary challenge in dispute settlement cases. Extremely long delays in the adjudication of commercial court cases are hampering Kosovo's economic development and investment climate. In addition, poor enforcement of laws is adversely affecting utility bill collections and the recovery of past due loans.

123. (U) Kosovo has a bankruptcy law and municipal courts handle bankruptcy procedures for all enterprises except SOEs. There is also a special bankruptcy division in the Pristina Municipal court.

124. (U) The Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters was established under Section One of UNMIK Regulation 2002/13. The Special Chamber deals with disputes and claims related to the privatization and economic restructuring process currently under way in Kosovo. The court is composed of three international and two local judges. The Chamber will have primary jurisdiction to hear appeals against the decisions of the Kosovo Trust Agency as well as creditor, ownership and property claims brought against SOEs and POEs and claims arising out of the privatization and liquidation of SOEs. The rules of procedure and directives for claimants wishing to institute proceedings are contained in Administrative Direction 2003/13 which also establishes the Special Chamber of the Supreme Court of Kosovo on KTA related matters.

125. (U) The Kosovo judicial system has 18.9 judges and prosecutors per 100,000 inhabitants, and 2.85 courts per 100,000 inhabitants, which is close to European standards. Despite the high proportion of judges, prosecutors and courts per the population, there remains a significant backlog of cases currently pending in local courts, indicating a clear need to improve the efficiency of the justice system. There are also 17 international judges and 10 international prosecutors working in the District and Supreme Courts of Kosovo and the Office of the Public Prosecutors. They handle approximately three percent of criminal cases considered as sensitive. The applicable laws in Kosovo are the 2004 New Provisional Criminal Code and Provisional Criminal Procedure Code of Kosovo. The courts are responsible for the administration of justice in Kosovo in accordance with the applicable law. The court structure includes the Supreme Court of Kosovo, District Courts, Municipal Courts and Courts of Minor Offenses (including a High Court of Minor Offenses).



A Special Chamber of the Supreme Court deals with Kosovo Trust Agency- related matters.

#### 1E. PERFORMANCE REQUIREMENTS/INCENTIVES

126. (U) UNMIK does not impose performance requirements as a condition for establishing, maintaining or expanding an investment. UNMIK implemented a 15 percent across-the-board value added tax (VAT) in July 2001. In order to encourage investment, UNMIK has granted those businesses that import capital goods a six-month deferment on VAT payment, conditioned upon presentation of a bank guarantee. Exports are zero-rated: suppliers may export goods without collecting VAT from the foreign buyer. Suppliers may claim credit for taxes on inputs either by offsetting those taxes against gross VAT liability or by claiming a refund.

127. (U) In September 2000, the EU amended its General System of Preferences, eliminating quantitative restrictions and measures for most industrial products and granting special preferences to agricultural imports from Kosovo. In June 2002, the EU modified this preferential treatment to include all imports from Kosovo.

#### 1F. RIGHT TO PRIVATE OWNERSHIP AND ESTABLISHMENT

128. (U) UNMIK regulations and the FIL do not interfere with the establishment, acquisition and disposal of interests in business enterprises by private entities. Foreign investment in Kosovo is allowed the rights of ownership, extending national treatment to foreign investors. Foreign investment is subject to approval by the authorities only to the extent that such approval would be required for similar domestic business organizations. The following rights also apply:

- a. foreign investors may transfer property rights, including permits, to other legally qualified persons in the same manner and to the same extent as domestic persons;
- b. foreign investors have the same right to purchase residential and non-residential property as domestic business organizations;
- c. foreign investors with less than a majority stake in a foreign investment shall be protected as domestic minority shareholders in accordance with the applicable law;
- d. foreign investments are not subject to more onerous tax obligations than similar domestic business organizations; and,
- e. foreign investors may establish subsidiary enterprises, branches and representative offices in the same manner and to the same extent as similar domestic organizations.

#### 1G. PROTECTION OF PROPERTY RIGHTS

129. (U) UNMIK Regulation 2002/22 promulgated the law adopted by the Kosovo Assembly to establish an immovable property rights register as a mechanism to protect private land ownership. The Kosovo Cadastral Agency (KCA) has the authority for the overall administration of the official register in compliance with the provisions of the applicable law. The municipal cadastral offices record immovable property rights in the register under the authority of the KCA. Security interests against movable property, accounts, proceeds, etc. are protected under Regulation 2001/5, which provides the exclusive means in which pledges are to be created, become effective against third parties, and are enforced. This regulation applies to all transactions, regardless of form, intended to create a pledge. UNMIK Regulation 2002/21 promulgated the law adopted by Kosovo Assembly on Mortgages, establishing a uniform system for securing and registering pledges against immovable property, and to institute a mortgage and pledge registry. The resolution of residential and private agricultural and commercial property remains a serious issue in Kosovo. The Kosovo Property Agency, formerly known as the Housing and Property Directorate (HPD), is completing the adjudication of

residential property disputes related to the period from March 23, 1989 to October 13, 1999, and is currently working on the resolution of private agricultural and commercial property claims.

¶30. (U) Section 10 of Regulation 2001/2 provides for the protection of intellectual property rights (IPR), authorizing enforcement of trademark, copyright and patent laws, and any applicable related international conventions. Intellectual property rights are also protected under the 1981 Yugoslav Law on Protection of Inventions, Technical Improvements and Distinctive Signs, and the 1991 Law on Authors Rights, both of which are considered applicable law by Kosovo's courts. However, there is insufficient protection of intellectual, industrial and commercial property rights in Kosovo.

¶31. (U) Old Yugoslav laws on IPR are applicable in Kosovo. Some efforts to develop more stringent property rights legislation are underway. There have been laws promulgated to protect intellectual, industrial and commercial property rights but enforcement remains weak and impedes the development of a comprehensive IPR regime in Kosovo. Intellectual property rights are flagrantly and visibly infringed in Kosovo. A significant number of counterfeit consumer goods (notably CDs, DVDs, clothing items and computer software) are available for sale and traded openly. This situation needs to be remedied by urgent action.

#### ¶H. TRANSPARENCY OF THE REGULATORY SYSTEM

¶32. (U) In order to promote fair and open competition for government tenders and transparency in the procurement and regulatory systems, the PISG and UNMIK publish the rules, regulations and procedures on their respective websites: [www.unmikonline.org](http://www.unmikonline.org); [www.assembly-kosova.org](http://www.assembly-kosova.org); [www.pm-ksgov.net](http://www.pm-ksgov.net). As UNMIK continues to establish regulatory institutions, procedures for obtaining licenses and permits vary widely, with a corresponding variance in the degree of transparency in the process.

¶33. (U) The Public Procurement Regulatory Agency recently initiated audits of some of the procurement activities of the Kosovo ministries and agencies that received funds from the Kosovo consolidated budget. The Central Procurement Agency in the Kosovo Ministry of Public Services manages bulk procurement and the provision of services for the PISG. All tenders advertised through the Central Procurement Agency are advertised in English, Albanian and Serbian.

#### ¶I. EFFICIENT CAPITAL MARKETS AND PORTFOLIO INVESTMENT

¶34. (U) UNMIK established the Banking and Payments Authority of Kosovo (BPK) in November 1999. BPK performs many of the functions of a central bank, with the exception of issuing currency and regulating monetary policy. In September 2006, the Banking and Payments Authority of Kosovo (BPK) was transformed into the Central Banking Authority of Kosovo (CBAK). The CBAK is an independent body whose role is to foster the development of competitive, sound and transparent banking and financial sectors, and facilitate economic growth. The CBAK supervises and regulates Kosovo's banking sector (six banks with approximately 240 branches), insurance industry (eight insurance companies), pension funds and other micro finance institutions, and performs a number of other tasks normally undertaken by a central bank, including cash management, transfers, clearing, management of funds deposited by the Ministry of Finance and Economy or other public institutions, collection of financial data, and the management of a credit register. The CBAK is not authorized to grant any loans, including liquidity, to banks. The primary focus of its monetary policy is to foster financial stability.

¶35. (U) The insurance sector is small but has grown rapidly in recent years. At the end of 2006, there were ten licensed insurance companies in Kosovo. The implementation of an online communications system and premium payments service through banks was introduced in 2004.

¶36. (U) Neither the banking system nor the non-financial enterprises is ready to finance large investment projects in the private sector. During the last three years, there has been minimal private investment in Kosovo, outside of real estate construction and development. About 80 percent of bank loans are short-term credits with interest rates ranging from 12-14 percent, which do not support long-term investments. Most of the deposits are demand (&a vista8) deposits.

#### ¶J. POLITICAL VIOLENCE

¶37. (U) Political violence has dropped dramatically since the riots of March 2004. In 2006, there were some isolated incidents of interethnic violence and sporadic political protests, but none of these events adversely affected Kosovo's political stability. The U.N.-authorized, NATO-led peacekeeping &Kosovo Force8 (KFOR), composed of forces from 41 countries (both NATO and non-NATO), maintains internal security and defense against external threats. KFOR also assists UNMIK's multinational civilian police corps (U.N. International Police, or CIVPOL) in its role as uniformed and criminal police. The UNMIK-run Kosovo Police Academy has trained more than 7,500 local police officers for the Kosovo Police Service (KPS). CIVPOL has transferred basic policing functions to KPS, while continuing to provide oversight and monitoring. The Kosovo Protection Corps (KPC), a civilian emergency preparedness service, is trained to respond to civil and medical emergencies.

#### ¶K. CORRUPTION

¶38. (U) Section 15 of Regulation 2001/3 states that foreign investors shall observe business practices consistent with the principles of the Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds of Crime (Council of Europe, Strasbourg, 8 July 1990); the Convention on Combating Bribery of Foreign Government Officials in International Business Transactions (Organization for Economic Cooperation and Development, Paris, 21 November 1997); and the Criminal Law Convention on Corruption (Council of Europe, Strasbourg, 27 January 1999). Violation of these conventions could cause a foreign investor to be disqualified from conducting business operations in Kosovo.

¶39. (U) Corruption in Kosovo is widespread at all levels throughout government and private industry, and adversely impacts commercial development. The Law on the Suppression of Corruption was promulgated in May 2005 providing; inter alia, for the creation of a Kosovo Anti-Corruption Agency. The law prescribes that an anti-corruption strategy should be prepared by the anti-corruption agency for the Government to be approved by the assembly. Since 2003, a financial investigation unit, staffed by Italian Guardia di Finanza officers, has the mandate to conduct financial inspections of public bodies and public enterprises as well as other organizations receiving public funds and launch criminal investigations.

¶40. (U) There are frequent reports about irregularities in public tendering procedures. The recent revision of the public procurement law, and a significant increase in public audits from the Kosovo Office of the Auditor General on budget and procurement irregularities, are important steps forward. The public procurement law reflects EU standards in defining a clear division between the executive and regulatory functions. Tax evasion is high, and many local and foreign businesses are deeply concerned about the professional ethics of government officials who allegedly take bribes or extort firms in exchange for licenses, permits, movement of paperwork or routine public services. Traditional lending and business practices tend to favor connections and nepotism over creditworthiness. Rumors of politically-motivated racketeering are common.

#### ¶L. BILATERAL INVESTMENT AGREEMENTS



¶41. (U) Under UN Security Council Resolution 1244, Kosovo's international relations and negotiations fall under UNMIK authority. However, the PISG is closely involved with these initiatives to ensure that the Kosovo government is fully capable of fulfilling its obligations under the constitutional framework for self-government. In May 2003, UNMIK submitted a statement of intent to the Stability Pact, committing itself to the obligations set out in the Memorandum of Understanding on Trade Liberalization and Facilitation. Following a declaration of intent on 29 May 2003 to follow the Stability Pact Memorandum on Trade Liberalization and Facilitation in Southeast Europe, UNMIK started to negotiate bilateral Free Trade Agreements (FTAs) with countries in the region under the umbrella of the Stability Pact Trade Working Group. For the purpose of negotiating FTAs, a Trade Policy Working Group was established comprising members from UNMIK, government ministries, UNMIK Customs, the Kosovo Chamber of Commerce, and other stakeholders.

¶42. (U) Albania was the first country to sign a free trade agreement (FTA) with Kosovo in 2003. Kosovo concluded an FTA with Macedonia in 2005. The Kosovo-Macedonia FTA gives Kosovo full duty free access to the Macedonian market, while maintaining some duties on imports, particularly in the agriculture sector. In 2006 Kosovo signed FTAs with Croatia and Bosnia-Herzegovina. In December 2006, Kosovo became a signatory to the Central European Free Trade Area (CEFTA) and EU Common Aviation Area. Kosovo participates in the Stabilization and Association Process (SAP), the EU's policy framework towards the Western Balkans, by following the guidelines of the European Partnership. The SAP steers Kosovo's reform process according to EU best practices and European legislation. The Partnership document outlines the main priorities that Kosovo needs to fulfill, thereby also taking into account the requirements of the Standards for Kosovo, which are a series of laws, policies and institutions that the PISG must create in the areas of rule of law, property rights, economy, among others, to help develop a viable, sustainable government. The Stabilization and Association Process Tracking Mechanism (STM) is the instrument that guides and monitors Kosovo's development with regard to the European Partnership. Important elements of the STM are the regular political meetings between the European Commission and the Kosovo authorities at which progress is discussed and further challenges are identified.

¶43. (U) In 2005, Kosovo became a member of the Athens Process on Energy for the Southeastern Europe Energy Community Treaty. This is a significant step for Kosovo in achieving increased regional cooperation, as well as securing more sources of energy which is essential for economic and social development and stability. In June 2004, Kosovo signed the Memorandum of Understanding (MOU) on the Development of a South East Europe Core Regional Transport Network. The signatory countries, the European Commission, the Stability Pact and international financial institutions are working jointly to expedite the implementation of the MOU.

#### ¶M. OPIC AND OTHER INVESTMENT INSURANCE PROGRAMS

¶44. (U) The U.S. Overseas Private Investment Corporation (OPIC) has been actively involved in Kosovo since 2000 by providing financing, political risk insurance and other investment vehicles to American investors. Through OPIC assistance, American investors are currently involved with projects in the energy sector and real estate development.

#### ¶N. LABOR

¶45. (U) On October 8 UNMIK approved Regulation 2001/27, the Essential Labor Law. The law requires that employment conditions are observed by contractual parties such full time status is relegated to a 40-hour work week, payment of overtime, occupational health and safety standards, 90 days of maternity leave and annual leave, among other provisions. The labor law does provide for a minimum wage but does not set an amount. Overtime is limited to 20 hours per week and

40 hours per month. The Ministry of Labor and Social Welfare created a labor inspectorate to ensure the labor law is adhered to by employers. Labor and contractual disputes are adjudicated in local courts.

#### 10. FOREIGN TRADE ZONES/FREE PORTS

146. (U) On January 30, 2004 UNMIK approved a new Customs Code (Regulation (2004/1), replacing the old Yugoslav Customs Code and related executive instrument that were applicable in Kosovo. The Kosovo Customs Code is a business friendly regulation, compliant with standards of the European Union and the World Customs Organization. The Code provides business friendly mechanisms - bonded warehouses, inward and outward processing, transit of goods, free trade zones, with the aim of facilitating trade and stimulating exports of goods. The purpose of bonded warehouses is to enable storage of goods under Customs supervision. The customs warehouse procedure allows the storage of non-Kosovo goods, without such goods being subject to import duties or commercial policy measures, and Kosovo goods, where legislation governing specific fields provides that their placement in a customs warehouse shall attract the application of measures normally required for the export of such goods. Through the provision of regulated and monitored inward and outward processing, individual companies are allowed to bring into Kosovo, without paying taxes or customs duties, components for the production of goods destined for export.

147. (U) There are no free trade zones, foreign trade zones and free ports in Kosovo. However, the Customs Code permits the establishment of free zones for manufacturing and export.

#### 11. FOREIGN DIRECT INVESTMENT STATISTICS

148. (U) Kosovo's foreign investment statistics are not fully comprehensive or readily available due to the nascent development of the Ministry of Trade and Industry's (MTI) Investment Promotion Agency (IPA), established in 2005. According to IPA data, foreign direct investment (FDI) was estimated to be 650 million euros from 2005 to July 2006, with 250 million euros of this amount coming from the privatization process, 277 million euros reported as minimal declared capital in the MTI Business Registration Office, and 133 million euros identified as direct investment and commercialization. IPA noted that these figures are estimates and believes that FDI is higher.

149. (U) The IPA reported that the number of registered businesses in Kosovo is 1,588, of which 22 are American companies. The other companies come from EU countries (249), Southeastern Europe (784), Switzerland (36), and Asia and other countries (497). According to IPA data, most foreign businesses are involved in trading (63 percent), service industries (18 percent), production, extraction and processing industries (11.5 percent), and construction (7.5 percent).

LASKARIS